

**Conclusion**

For the foregoing reasons, claims 1 and 3-6 are allowable, and the present application is in condition for allowance. Accordingly, favorable reexamination and reconsideration of the application in light of these amendments and remarks is courteously solicited. If the examiner has any comments or suggestions that would place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the number below.

Dated: May 17, 2004

Respectfully submitted,

By 

David T. Nikaido

Registration No.: 22,663

Robert S. Green

Registration No.: 41,800

RADER, FISHMAN & GRAUER PLLC

1233 20th Street, N.W.

Suite 501

Washington, DC 20036

(202) 955-3750

Attorneys for Applicant

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge Deposit Account No. 180013 for any such fees; and applicant(s) hereby petition for any needed extension of time.



Docket No.: SHG-0047  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Jun Akikusa et al.

Application No.: 09/891,501

Art Unit: 1745  
Examiner: R. Alejandro

Filed: June 27, 2001

For: SOLID OXIDE FUEL CELL

DECLARATION UNDER 37 C.F.R. 1.132

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

I, Jun Akikusa, being duly warned, hereby declare and say:


1. I received a B.S. in Industrial Chemistry from Science Technology Department of Nihon University in 1991. I received a Ph.D in Chemistry from Chemistry Department, Duquesne University in 1996.
2. I have presently employed as a Research Scientist at R&D projects and have been employed since January 1, 1998 by Mitsubishi Materials Corporation of Tokyo, Japan.
3. I am one of the inventors of the present invention and am familiar with the technology involving the present patent application, and have thoroughly reviewed the application as well as the alleged new matter rejections applied by the U.S. Patent and Trademark Office.
4. From my analysis, the expression "0 or 80% or less than" is an obvious error that should have recited as "0 to 80%". According to Table I of the specification, the amount of Co in the first electrolyte layer is 0.106 atomic percent ( $0.032 + 0.036 + 0.038$ ), and the Co amount in the second electrolyte layer is 0.304 atomic percent ( $0.66 + 0.078 + 0.080 + 0.080$ ). That is, the percentage of the Co amount (0.106 atomic percent) in the first electrolyte layer with respect to the Co amount (0.304 atomic percent) in the second electrolyte layer is 34.9 %, which is within the range 0 to 80%.

5. Additionally, claim 2 and various places of the specification recite that "an amount of Co in said first electrolyte layer is 0 or 80% or less with respect to an amount of Co in said second electrolyte layer" The phrase "0 or 80% or less" can only mean "0 to 80%," it cannot mean "0 or less with respect to " or "80% or less with respect to," because the content of Co cannot be negative. The expression "0 or 80% or less than" is an obvious error for "0 or 80% or less with respect to."

6. Accordingly, it is my belief that one of skill in the art would recognize that "0 or 80% or less than" is understood, in view of the specification, to mean that an amount of Co in said first electrolyte layer is  $0\% \leq \text{Co} \leq 80\%$ , or 0 to 80%, with respect to an amount of Co in said second electrolyte layer, and that this is an obvious error and is therefore not new matter

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent resulting therefrom.

May 11, 2004  
Date

  
Mr. Jun Akikusa